

IC 11-12-2

Chapter 2. State Grants to Counties for Community Corrections and Charges to Participating Counties for Confined Offenders

IC 11-12-2-1

Purpose of grants; availability and use of appropriations

Sec. 1. (a) For the purpose of encouraging counties to develop a coordinated local corrections-criminal justice system and providing effective alternatives to imprisonment at the state level, the commissioner shall, out of funds appropriated for such purposes, make grants to counties for the establishment and operation of community corrections programs. Appropriations intended for this purpose may not be used by the department for any other purpose. Money appropriated to the department of correction for the purpose of making grants under this chapter, and charges made against a county under section 9, do not revert to the state general fund at the close of any fiscal year, but remain available to the department of correction for its use in making grants under this chapter.

(b) The commissioner shall give priority in issuing community corrections grants to programs that provide alternative sentencing projects for persons with mental illness, addictive disorders, mental retardation, and developmental disabilities.

As added by Acts 1979, P.L.120, SEC.5. Amended by P.L.151-1983, SEC.1; P.L.85-2004, SEC.42.

IC 11-12-2-2

Community corrections advisory board; membership; terms; combined advisory board; officers; quorum; assistance and appropriations

Sec. 2. (a) To qualify for financial aid under this chapter, a county must establish a community corrections advisory board by resolution of the county executive or, in a county having a consolidated city, by the city-county council. A community corrections advisory board consists of:

- (1) the county sheriff or the sheriff's designee;
- (2) the prosecuting attorney or the prosecuting attorney's designee;
- (3) the director of the county office of family and children or the director's designee;
- (4) the executive of the most populous municipality in the county or the executive's designee;
- (5) two (2) judges having criminal jurisdiction, if available, appointed by the circuit court judge or the judges' designees;
- (6) one (1) judge having juvenile jurisdiction, appointed by the circuit court judge;
- (7) one (1) public defender or the public defender's designee, if available, or one (1) attorney with a substantial criminal defense practice appointed by the county executive or, in a county having a consolidated city, by the city-county council;
- (8) one (1) victim, or victim advocate if available, appointed by

the county executive or, in a county having a consolidated city, by the city-county council;

(9) one (1) ex-offender, if available, appointed by the county executive or, in a county having a consolidated city, by the city-county council; and

(10) the following members appointed by the county executive or, in a county having a consolidated city, by the city-county council:

(A) One (1) member of the county fiscal body or the member's designee.

(B) One (1) probation officer.

(C) One (1) educational administrator.

(D) One (1) representative of a private correctional agency, if such an agency exists in the county.

(E) One (1) mental health administrator, or, if there is none available in the county, one (1) psychiatrist, psychologist, or physician.

(F) Four (4) lay persons, at least one (1) of whom must be a member of a minority race if a racial minority resides in the county and a member of that minority is willing to serve.

(b) Designees of officials designated under subsection (a)(1) through (a)(7) and (a)(10)(A) serve at the pleasure of the designating official.

(c) Members of the advisory board appointed by the county executive or, in a county having a consolidated city, by the city-county council, shall be appointed for a term of four (4) years. The criminal defense attorney, the ex-offender, and the victim or victim advocate shall be appointed for a term of four (4) years. Other members serve only while holding the office or position held at the time of appointment. The circuit court judge may appoint himself to fill the position of the judge having juvenile court jurisdiction if he is otherwise qualified. A vacancy occurring before the expiration of the term of office shall be filled in the same manner as original appointments for the unexpired term. Members may be reappointed.

(d) Two (2) or more counties, by resolution of their county executives or, in a county having a consolidated city, by the city-county council, may combine to apply for financial aid under this chapter. If counties so combine, the counties may establish one (1) community corrections advisory board to serve these counties. This board must contain the representation prescribed in subsection (a), but the members may come from the participating counties as determined by agreement of the county executives or, in a county having a consolidated city, by the city-county council.

(e) The members of the community corrections advisory board shall, within thirty (30) days after the last initial appointment is made, meet and elect one (1) member as chairman and another as vice chairman and appoint a secretary-treasurer who need not be a member. For purposes of transacting business, a majority of the membership constitutes a quorum. The affirmative votes of at least five (5) members, but not less than a majority of the members

present, are required for the board to take action. A vacancy in the membership does not impair the right of a quorum to transact business.

(f) The county executive and county fiscal body shall provide necessary assistance and appropriations to the community corrections advisory board established for that county. Appropriations required under this subsection are limited to amounts received from the following sources:

- (1) Department grants.
- (2) User fees.
- (3) Other funds as contained within an approved plan.

Additional funds may be appropriated as determined by the county executive and county fiscal body.

As added by Acts 1979, P.L.120, SEC.5. Amended by P.L.16-1986, SEC.6; P.L.240-1991(ss2), SEC.61; P.L.2-1992, SEC.113; P.L.4-1993, SEC.15; P.L.5-1993, SEC.28; P.L.104-1997, SEC.3; P.L.105-1997, SEC.1.

IC 11-12-2-3

Community corrections advisory board; duties

Sec. 3. (a) A community corrections advisory board shall:

- (1) formulate:
 - (A) the community corrections plan and the application for financial aid required by section 4 of this chapter; and
 - (B) the forensic diversion program plan under IC 11-12-3.7;
- (2) observe and coordinate community corrections programs in the county;
- (3) make an annual report to the county fiscal body, county executive, or, in a county having a consolidated city, the city-county council, containing an evaluation of the effectiveness of programs receiving financial aid under this chapter and recommendations for improvement, modification, or discontinuance of these programs;
- (4) ensure that programs receiving financial aid under this chapter comply with the standards adopted by the department under section 5 of this chapter; and
- (5) recommend to the county executive or, in a county having a consolidated city, to the city-county council, the approval or disapproval of contracts with units of local government or nongovernmental agencies that desire to participate in the community corrections plan.

Before recommending approval of a contract, the advisory board must determine that a program is capable of meeting the standards adopted by the department under section 5 of this chapter.

(b) A community corrections advisory board shall do the following:

- (1) Adopt bylaws for the conduct of its own business.
- (2) Hold a regular meeting at least one (1) time every three (3) months and at other times as needed to conduct all necessary business. Dates of regular meetings shall be established at the

first meeting of each year.

(3) Comply with the public meeting and notice requirements under IC 5-14-1.5.

(c) A community corrections advisory board may contain an office as designated by the county executive or, in a county having a consolidated city, by the city-county council.

(d) Notwithstanding subsection (a)(4), the standards applied to a court alcohol and drug program or a drug court that provides services to a forensic diversion program under IC 11-12-3.7 must be the standards established under IC 12-23-14 or IC 12-23-14.5.

As added by Acts 1979, P.L.120, SEC.5. Amended by P.L.240-1991(ss2), SEC.62; P.L.224-2003, SEC.123; P.L.85-2004, SEC.2.

IC 11-12-2-3.5

Community corrections advisory board; appointment of director; employees

Sec. 3.5. (a) The director, if any, of the community corrections program shall be appointed by the community corrections advisory board, subject to the approval of the county executive or, in a county having a consolidated city, by the city-county council. A director may be removed for cause by a majority vote of the community corrections advisory board, subject to the approval of the county executive or, in a county having a consolidated city, of the city-county council.

(b) The community corrections advisory board may establish personnel policies, procedures, and salary classification schedules for its employees. Employees of a community corrections program are county employees. The policies, procedures, and schedules established under this subsection may not be inconsistent with those established for other county employees.

As added by P.L.240-1991(ss2), SEC.63.

IC 11-12-2-4

Community corrections plan; application for financial aid; compliance with rules; annual updating; amendment or modification

Sec. 4. (a) A county or group of counties seeking financial aid under this chapter must apply to the commissioner in a manner and form prescribed by the commissioner. The application must include a community corrections plan that has been approved by the community corrections board and the county executive or, in a county having a consolidated city, by the city-county council. No county may receive financial aid until its application is approved by the commissioner.

(b) A community corrections plan must comply with rules adopted under section 5 of this chapter and must include:

(1) a description of each program for which financial aid is sought;

(2) the purpose, objective, administrative structure, staffing, and

duration of the program;

(3) the program's total operating budget, including all other sources of anticipated income;

(4) the amount of community involvement and client participation in the program;

(5) the location and description of facilities that will be used in the program; and

(6) the manner in which counties that jointly apply for financial aid under this chapter will operate a coordinated community corrections program.

(c) A community corrections plan must be annually updated, approved by the county executive or, in a city having a consolidated city, by the city-county council, and submitted to the commissioner.

(d) No amendment to or substantial modification of an approved community corrections plan may be placed in effect until the department and county executive, or in a county having a consolidated city, the city-county council, have approved the amendment or modification.

(e) A copy of the final plan as approved by the department shall be made available to the board in a timely manner.

As added by Acts 1979, P.L.120, SEC.5. Amended by P.L.240-1991(ss2), SEC.64.

IC 11-12-2-5

Powers and duties of department and commissioner

Sec. 5. (a) The department shall do the following:

(1) Provide consultation and technical assistance to counties to aid in the development of community corrections plans.

(2) Provide training for community corrections personnel and board members to the extent funds are available.

(3) Adopt under IC 4-22-2 rules governing application by counties for financial aid under this chapter, including the content of community corrections plans.

(4) Adopt under IC 4-22-2 rules governing the disbursement of monies to a county and the county's certification of expenditures.

(5) Adopt under IC 4-22-2 minimum standards for the establishment, operation, and evaluation of programs receiving financial aid under this chapter. (These standards must be sufficiently flexible to foster the development of new and improved correctional practices.)

(6) Examine and either approve or disapprove applications for financial aid. The department's approval or disapproval must be based on this chapter and the rules adopted under this chapter.

(7) Keep the budget agency informed of the amount of appropriation needed to adequately fund programs under this chapter.

(8) Adopt under IC 4-22-2 a formula or other method of determining a participating county's share of funds appropriated for purposes of this chapter. This formula or method must be

approved by the budget agency before the formula is adopted and must be designed to accurately reflect a county's correctional needs and ability to pay.

(9) Keep counties informed of money appropriated for the purposes of this chapter.

(10) Provide an approved training curriculum for community corrections field officers.

(b) The commissioner may do the following:

(1) Visit and inspect any program receiving financial aid under this chapter.

(2) Require a participating county or program to submit information or statistics pertinent to the review of applications and programs.

(3) Expend up to three percent (3%) of the money appropriated to the department for community correction grants to provide technical assistance, consultation, and training to counties and to monitor and evaluate program delivery.

(c) Notwithstanding any law prohibiting advance payments, the department of correction may advance grant money to a county or group of counties in order to assist a community corrections program. However, not more than twenty-five percent (25%) of the amount awarded to a county or group of counties may be paid in advance.

(d) The commissioner shall disburse no more funds to any county under this chapter than are required to fund the community corrections plan.

As added by Acts 1979, P.L.120, SEC.5. Amended by P.L.151-1983, SEC.2; P.L.240-1991(ss2), SEC.65; P.L.104-1997, SEC.4.

IC 11-12-2-6

Eligibility for financial aid; requirement of compliance

Sec. 6. To remain eligible for financial aid under this chapter, a county must comply with its community corrections plan and the rules and minimum standards adopted by the department under section 5 of this chapter. If the commissioner determines that there are reasonable grounds to believe that a county is not complying with its plan, the rules, or the minimum standards, he shall, after giving at least thirty (30) days written notice to the board of county commissioners or city-county council, the community corrections advisory board, and the chief administrator of the program, conduct a hearing under IC 4-21.5-3 to ascertain whether compliance has been achieved. Upon a finding of noncompliance, the commissioner may suspend any part of the financial aid until compliance is achieved.

As added by Acts 1979, P.L.120, SEC.5. Amended by P.L.7-1987, SEC.23.

IC 11-12-2-7

Eligibility for financial aid; failure to qualify

Sec. 7. Failure of a county to qualify for financial aid under this

chapter does not affect its eligibility for other state funds for correctional purposes otherwise provided by law.

As added by Acts 1979, P.L.120, SEC.5.

IC 11-12-2-8

Restriction on use of funds

Sec. 8. (a) Counties may not use funds received under this chapter to construct or renovate county jails.

(b) Counties acting jointly may use funds received under this chapter to construct a county operated residential work release facility, if the facility is not:

- (1) physically connected to a jail; or
- (2) used to house offenders who are required to serve their sentence in a county jail.

(c) The department may provide funds under this chapter for the construction of a facility under subsection (b) in an amount that does not exceed fifty percent (50%) of the cost of construction of the facility. The funds provided under this subsection may not be used for any purpose other than the construction of the facility.

(d) The counties acting under subsection (b) shall provide the funds required for:

- (1) the construction of the facility in addition to the funds provided by the department under subsection (c);
- (2) the operation of the facility; and
- (3) the administration of the community corrections program.

(e) A residential work release facility constructed under subsection (b) may not be used for any purpose other than the operation of a community corrections program during the ten (10) year period following the completion of construction.

As added by Acts 1979, P.L.120, SEC.5. Amended by P.L.136-1989, SEC.3; P.L.4-2001, SEC.1.

IC 11-12-2-9

Charges on county receiving financial aid; daily cost of person confined in state correctional facility; limitation on charges

Sec. 9. (a) A county receiving financial aid under this chapter shall be charged a sum for each person committed to the department of correction and confined in a state correctional facility equal to seventy-five percent (75%) of the average daily cost of confining a person in certain state correctional facilities as calculated by the state board of accounts. The daily cost is determined by dividing the average daily population of the state prison, the Pendleton Correctional Facility, and the Putnamville Correctional Facility into the previous fiscal year's operating expense of those three (3) facilities and reducing the quotient to an average daily cost. However, no charge may be made for those persons:

- (1) convicted of:
 - (A) murder or a Class A or Class B felony;
 - (B) involuntary manslaughter, reckless homicide, battery, criminal confinement, child molesting, robbery, burglary, or

- escape as Class C felonies;
- (C) any other felony resulting in bodily injury to any other person;
- (D) any other felony committed by means of a deadly weapon;
- (E) any felony for which an habitual offender sentence was imposed;
- (F) any offense for which the sentence is nonsuspendible under IC 35-50-2-2(a); or
- (G) dealing in marijuana as a Class D felony under IC 35-48-4-10(b)(1)(B) or a Class C felony under IC 35-48-4-10(b)(2);
- (2) transferred to the department of correction after they have violated the terms of their community corrections sentence; or
- (3) who were charged with:
 - (A) a felony resulting in serious bodily injury; or
 - (B) a felony committed by means of a deadly weapon;and the sentencing court noted on the commitment order that such charges were dismissed pursuant to a plea agreement under IC 35-35-3.

(b) The amount charged a county under this section may not exceed the amount of financial aid received under this chapter. The amount charged shall be deducted from the subsidy payable to the participating county. All charges are a charge upon the county of original jurisdiction.

(c) Notwithstanding subsection (a), if a county receives financial aid under this chapter for a program or a facility for persons convicted of crimes but has not received financial aid under this chapter for a program or a facility for delinquent offenders, the costs of keeping delinquent offenders in state programs or facilities operated by the department of correction shall be paid under IC 11-10-2-3.

(d) Notwithstanding subsection (a), if a county receives financial aid under this chapter for a program or a facility for delinquent offenders but has not received financial aid under this chapter for a program or a facility for persons convicted of crimes, the costs of keeping persons convicted of crimes in state programs or facilities operated by the department of correction shall be paid by the department of correction.

(e) Notwithstanding subsection (a), no charge may be made for:

- (1) the initial twelve (12) months of the county's participation in the subsidy program;
- (2) each month during which:
 - (A) the county maintains a residential facility or a portion of a residential facility as part of its community corrections plan; and
 - (B) the residential facility or the community corrections portion of the residential facility operates at the rated bed capacity specified in the county's community corrections plan; or

(3) each month during which a county that has no residential facility as part of its community corrections plan operates a community corrections program at the offender-supervisor ratio specified by the plan.

(f) A county fulfills the rated bed capacity requirement of subsection (e)(2) if the following conditions are met:

(1) Each bed used in the calculation of rated bed capacity must be filled each day of the month unless a vacancy occurs because of the release, escape, or incarceration of the bed's occupant.

(2) A vacancy that occurs because of the release, escape, or incarceration of the occupant of a bed used in the calculation of rated bed capacity must be filled within two (2) days after its occurrence.

(g) A county fulfills the offender-supervisor ratio requirement of subsection (e)(3) if the following conditions are met:

(1) Each opening used in the calculation of the offender-supervisor ratio specified in the community corrections plan must be filled each day of the month unless a vacancy occurs because of the release, escape, or incarceration of an offender.

(2) A vacancy that occurs because of the release, escape, or incarceration of an offender must be filled within two (2) working days after its occurrence.

As added by Acts 1979, P.L.120, SEC.5. Amended by Acts 1981, P.L.134, SEC.1; Acts 1982, P.L.93, SEC.1; P.L.151-1983, SEC.3; P.L.25-1985, SEC.2; P.L.12-1996, SEC.10.

IC 11-12-2-10

Termination of participation in subsidy program

Sec. 10. A county receiving financial aid under this chapter may terminate its participation by delivering a resolution of the board of county commissioners or city-county council to the commissioner. Upon withdrawal from the subsidy program, the board of county commissioners or city-county council may adopt a resolution stating that it is in the best interests of the county that the community corrections advisory board be dissolved, whereupon the county commissioners or city-county council shall pay and discharge any debts or liabilities of the advisory board, collect and distribute assets of the advisory board under the laws of Indiana, and pay over any remaining proceeds or property to the proper fund.

As added by Acts 1979, P.L.120, SEC.5. Amended by Acts 1981, P.L.109, SEC.2.

IC 11-12-2-11

Authority over county jail and persons confined therein

Sec. 11. This chapter does not limit or impair the statutory authority of any elected official, including the county sheriff's authority over the county jail and persons confined therein.

As added by Acts 1979, P.L.120, SEC.5.

IC 11-12-2-12

Community corrections funds established

Sec. 12. (a) A community corrections fund is established in each community having a community corrections program. The fund shall be administered by the community corrections advisory board in accordance with rules adopted by the department under subsection (c). The expenses of administering the fund shall be paid from money in the fund. Money in the fund at the end of a fiscal year does not revert to any other fund. The fund consists of fees deposited under subsection (b). Money in the fund may be used only for the provision of community corrections program services, including services allowed under IC 11-12-2-5(b)(3).

(b) In addition to user fees collected under IC 31-40, IC 35-38-2-1, or any other user fee collected from a participant in a community corrections program by an agency or program, a community corrections program may collect from a participant a user fee assessed in accordance with rules adopted under subsection (c). Community corrections user fees collected under this section shall be deposited into the community corrections fund established by this section.

(c) The department shall adopt rules under IC 4-22-2 governing the following:

- (1) The maximum amount that a community corrections program or a court may assess as a user fee under subsection (b) or IC 35-38-2.5-6.
- (2) Administration by community corrections advisory boards of community corrections funds and the community corrections home detention fund, including criteria for expenditures from the funds.

As added by P.L.136-1989, SEC.4. Amended by P.L.240-1991(ss2), SEC.66; P.L.1-1997, SEC.47; P.L.253-1997(ss), SEC.8.

IC 11-12-2-13 Repealed

(Repealed by P.L.73-1992, SEC.12.)

IC 11-12-2-13.5

Repealed

(Repealed by P.L.1-1994, SEC.45.)